

**ORIGINAL**

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
BEFORE THE HONORABLE  
WILLIAM B. SHUBB, DISTRICT JUDGE PRESIDING

UNITED STATES OF AMERICA, ) Case No. 2:21-cr-00111-WBS  
)  
Plaintiff, ) Jury Trial Day 7  
)  
v. ) Date: 5/23/24  
)  
ROBERT ALLEN POOLEY, )  
)  
Defendant. )

**REPORTER'S PARTIAL TRANSCRIPT OF TRIAL PROCEEDINGS**

Pages 1 through 66

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Eastern District of California  
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*Proceedings recorded by mechanical stenography. Transcript  
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**SACRAMENTO, CALIFORNIA; THURSDAY, MAY 22, 2024; 10:20 A.M.**

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(Prior record previously produced.)

THE COURT: All right. We'll take a 15-minute recess at this time. Continue to heed the Court's admonition, ladies and gentlemen. We'll resume in 15 minutes.

(The jury panel exited the courtroom.)

(Brief recess was taken.)

(The jury panel entered the courtroom.)

THE COURT: Everyone is present. Ms. Crager, you may proceed with your argument on behalf of the defendant.

MS. CRAGER: Thank you, Your Honor.

Good morning, ladies and gentlemen.

The Government has failed to prove that Mr. Pooley used Yuri Garmashov's signature to deceive the candidates. They have failed to meet their burden, and because of that, Mr. Pooley must be found not guilty.

You've just heard the Government spin a story for you, taking the evidence that they spoke about in the most negative possible light, the most cynical possible version of what could have happened here.

No matter what the evidence is, I submit to you the Government would tell you that evidence points to guilt, and that's not surprising, because the prosecutors in this case and the agents in this case have spent literal years of their lives

1 gathering facts and thinking about how those facts lead to  
2 guilt for Mr. Pooley in this trial.

3 Now, that's not what you, as the jury, are charged  
4 with doing. What you are charged with doing is maybe the  
5 opposite of that: Looking at every piece of and questioning,  
6 does it really mean that Mr. Pooley's guilty? What does it  
7 really mean?

8 Now, I want to walk you through some of the evidence,  
9 but before I do that, I wanted to discuss some of the  
10 principles that you will need to apply when evaluating the  
11 evidence in front of you, and I want to talk about those  
12 because it is different than what we do outside this courtroom  
13 in our ordinary life.

14 In our ordinary life when there's a dispute between  
15 two people, two children, two friends, whatever is happening in  
16 your life, you know, you ask them to come to you and tell you  
17 what their version is, and then you ask them both to come with  
18 their evidence, and then you make a decision based on which one  
19 sounded more reasonable, who had the evidence to prove what was  
20 going on, which one made more sense. That's typically how we  
21 evaluate these situations.

22 The problem is in the jury room, it's different. We  
23 don't use that kind of common sense in the jury room. We have  
24 to use a very specific way of evaluating the evidence that is,  
25 honestly, a little bit unnatural to all of us.

1           The way we have to do that is put out, in the jury  
2 instructions to you, concerning the Government's burden of  
3 proof. The burden of proof is always on the Government, and  
4 you've heard that many times. But what that really means is  
5 that the Government needs to come with everything.

6           I and Mr. Pooley are not required to show you  
7 anything, and we have no burden of proof. So if we're telling  
8 you there's another way to interpret the events of this case,  
9 it is not my responsibility, it is not Mr. Pooley's  
10 responsibility to prove it to you. It is the Government's  
11 responsibility to disprove it.

12           So you may be back in the jury room and another juror  
13 says, "Well, what Ms. Crager said could be correct, but I  
14 didn't hear from the defense that such-and-such evidence" --  
15 or, you know, "I would have really liked to have the defense  
16 put on something about" and fill in that evidence.

17           There will be questions that you're left with. There  
18 are a lot of questions in this case, and we're going to talk  
19 about those. If you're left with questions, that means that  
20 the Government has not proved their case.

21           I also want to talk about the concept of reasonable  
22 doubt, and this is another concept that can be unnatural,  
23 because it's not how we make decisions in our ordinary lives.

24           Now, the Government has given you a version of the  
25 story, connecting all the dots of various pieces of evidence,

1 and told you how to use those dots to check these boxes. Okay.

2 Now, in your ordinary life, that might be totally  
3 reasonable if someone gives you a reasonable version of events  
4 and saying, "Look, this meets this element. We checked this  
5 box. We move on."

6 That's not enough here in this courtroom and back in  
7 the jury room. Just because the Government has shown you a way  
8 to connect the dots that you think is reasonable and meets the  
9 elements, does not mean they have proved their case beyond a  
10 reasonable doubt.

11 And I want to say that again in a slightly different  
12 way. Just because the prosecutor has told you their story  
13 containing evidence that meets the elements, they have not  
14 proved it beyond a reasonable doubt.

15 The Government must prove not only that their version  
16 of events is reasonable; they must also prove that it is the  
17 only reasonable way to interpret the evidence. So not only is  
18 it even more reasonable than another version; they must prove  
19 that it is the only reasonable interpretation.

20 Now I'm going to walk you through one way that I think  
21 the dots connect in this case of what I think really happened  
22 here. There might be other ways to connect the dots. That's  
23 up to you.

24 You saw the witnesses in this case, you saw their  
25 demeanor, and I think that's important. You saw all the

1 exhibits that came in, and you're going to have that back in  
2 the jury room with you. You could all disagree about how to  
3 connect the dots. Each and every one of you could have a  
4 different interpretation of what you think really happened  
5 eight years ago. You just need one reasonable doubt. If you  
6 have a reasonable doubt, you must find Mr. Pooley not guilty.

7           So just to sum that up: If there are two or more  
8 versions of what happened that are consistent with the evidence  
9 in the case, you must find Mr. Pooley not guilty.

10           All right. I want to go back to some of the things  
11 that the Government has asked you to do to connect the dots in  
12 this case. The Government has told you that Mr. Pooley sent  
13 out or other people sent out e-mails after a suspension,  
14 falsely claiming that he could get people tandem ratings.

15           Here's another version consistent with the evidence,  
16 and I'm going to walk you through that. Mr. Pooley's  
17 representations that he could get people tandem ratings, he did  
18 not intend for those to be false. He would sent out these  
19 e-mails. You saw these e-mails.

20           He would say at the Parachute Center, "We can get you  
21 your ratings." And then people came. Often when they came  
22 during this period, Yuri was there. And Yuri testified about  
23 that; that he was, in fact, there a lot, and he would train  
24 people.

25           For instance, we talked about a person, Mr. Keir. You

1 didn't hear from Mr. Keir, but we did see some evidence about  
2 him. I want to pull that up real quick.

3 If we could pull up 707, please.

4 So this is the e-mail where Mr. Keir reaches out to  
5 the Parachute Center, and he's referred to Rob Pooley.

6 I'd like to go now to 913. Okay.

7 And this is correspondence between, as you see, Rob  
8 Pooley and Mr. Keir. They talk about the tandem ratings.  
9 "Come anytime you want." They talk about what he has to do to  
10 do those tandem ratings.

11 We can take that down.

12 And then what happened is he came to the Parachute  
13 Center, and he was trained by Yuri. Yuri said, "Yeah, that was  
14 one of the guys I trained." Yuri said, "Yeah, that guy got his  
15 ratings." And James Crouch, the Government's witness, the  
16 first witness on the stand, he also confirmed, yes, Richard  
17 Keir did get his ratings.

18 Now, the same thing happened for two other people that  
19 we pointed out.

20 If we could pull up 706, please.

21 All right. This is Government's Exhibit 706. More  
22 correspondence with a person named Michael Jeffit about getting  
23 his tandem ratings. And you heard from both Yuri Garmashov and  
24 Jim Crouch, this person, in fact, got his ratings, was trained  
25 by Yuri and got his ratings.

1           There's one more I want to look at. 701, please.

2           And here, again, is a person, Gavin Creagh. And Gavin  
3 Creagh, as well, came to the Parachute Center, trained with  
4 Yuri and, as Jim Crouch confirmed, got his ratings.

5           You can take that down.

6           So at least for some of these people, Rob Pooley did  
7 not intend to deceive them. They, in fact, came, and they, in  
8 fact, got their ratings at the Parachute Center.

9           All right. I want to move on to the summer of 2016  
10 and what the Government has told you about what that all means.

11           The Government has told you that Rob Pooley led people  
12 to believe he could legitimately get their ratings that summer.  
13 I'll submit to you that's not necessarily what the evidence  
14 shows. Rob Pooley let the candidates know that he was trying  
15 to get their ratings. The candidates knew Rob was going to  
16 train them. Yuri was signing off. Yuri was signing off as the  
17 examiner. And the candidates knew that to get their ratings,  
18 they would have to lie to the USPA.

19           Now, that's not a legitimate rating. Like, if I was  
20 trying to get you a driver's license and I had to lie to the  
21 DMV about that, like, you would know that is not a legitimate  
22 way to do it.

23           And I submit to you that Rob Pooley was making it  
24 clear to these people, "Sure, I can get you these ratings, but  
25 it's going to be under the table. We're going to have to lie



1 to the USPA."

2 That was not being hidden from them. It was not told  
3 to them upfront in e-mail, number one, but that was not hidden  
4 from them. Now, I don't want you to take my word for that. I  
5 want to look at the evidence.

6 And let's pull up Exhibit 614 and page 8, please.

7 Okay. So this is the paperwork that you heard so much  
8 about. This is what Rob Pooley handed to the tandem candidates  
9 when -- at the completion of the course. And as you can see  
10 down here, these are all the signatures of Yuri Garmashov.  
11 Those were all prefilled on there.

12 Let's go to the next page, please.

13 Okay. And here, as we saw, there are many more  
14 signatures. Some of them specified signature of the examiner.  
15 And specifically down here, it states: "USPA tandem instructor  
16 examiner, Yuri Garmashov."

17 THE COURT: I'm going to get  
18 [Participant No. 101138626] some water here. I think --

19 MS. CRAGER: Sure.

20 THE COURT: But I don't know who to ask to do it.  
21 Ross, could you do that? Is it --

22 MS. CRAGER: I have some up here too.

23 THE COURT: All right.

24 MS. CRAGER: Okay. So going back to this paperwork.  
25 It clearly states on the paperwork handed to the candidates the

1 examiner's name is Yuri Garmashov.

2           Now, at this point, the candidates know that Yuri  
3 Garmashov didn't train them; right? It was Rob Pooley who  
4 trained them. And then Mike Spurgeon, he was helping out  
5 sometimes and doing some of the training, but it certainly was  
6 not Yuri Garmashov who was training them.

7           So at the point that Rob Pooley hands them this  
8 paperwork, they know who trained them, and they get this  
9 paperwork that says Yuri Garmashov is the examiner.

10           Now, I've read this with some of the witnesses, but I  
11 think this is important. This paperwork says: "I have  
12 personally examined and recommend this applicant for the USPA  
13 tandem instructor rating. Signed Yuri Garmashov."

14           Now, the candidates knew that was a lie. That was a  
15 lie to the USPA. Now, some of the witnesses, the three people  
16 we heard of, said, basically, "Maybe I didn't see that. Maybe  
17 I didn't look very closely."

18           That's not what's important here. What's important  
19 here is what Mr. Pooley intended. He's the one that the  
20 Government is trying to put in prison. It's important what he  
21 intended. What he did was give people this paperwork,  
22 informing them that to get their ratings, they would have to  
23 lie. He was not communicating to them, "I can get your  
24 ratings, and it will all be above board." That is not what was  
25 happening here.

1 I'd like to turn to page 10.

2 And here, again, it states clearly in black and white,  
3 the name of the examiner is Yuri Garmashov.

4 I'd like to go to page 16.

5 I want to take a look at this endorsement by the  
6 examiner. Now, this one, I think, is important because, first  
7 of all, of course, it says name of the examiner, Yuri  
8 Garmashov. Okay. That was not being hidden from the  
9 candidates, and that is right above a part where the candidate  
10 has to sign. They put their name here and they sign. They  
11 say: "I hereby certify that I have been properly trained."

12 The candidates have to read that. If Rob Pooley hands  
13 them paperwork or they have to sign to say they certified  
14 something, if they're now saying, "Oh, I didn't look at that.  
15 I didn't think about it," that's not Mr. Pooley's fault. The  
16 candidates knew that what they were certifying was a lie. That  
17 was not hidden from them.

18 We can take that down.

19 I want to talk about some of the other evidence in  
20 black and white.

21 Now, we've -- the Government pulled out the text  
22 messages, a couple of them, from Brad North. Now, it's  
23 important to me about those text messages, another way to read  
24 those text messages is that they show that Brad North knew that  
25 Yuri's signature was there, knew that Yuri didn't train him,

1 and knew that he was lying on that paperwork.

2 He asked Rob Pooley, "Oh, so I just put the dates next  
3 to Yuri's signatures." Casual way like that, not, "Wait. You  
4 want me to certify I was properly trained by Yuri?"

5 He knows. He knows what's going on there.

6 Another thing about those text messages is that  
7 Mr. Pooley is telling him exactly how it's going to go. He's  
8 going to send the paperwork to Yuri Garmashov. Yuri is going  
9 to review it, and after that, they're going to submit it.

10 Now, the Government has tried to make a lot of hay  
11 about how, oh, he was asked a lot of times, and then he didn't  
12 send it. So that was all a lie. But, actually, they were  
13 going to send in the paperwork after Yuri came back. And we'll  
14 see that in Yuri's text messages, as well, that I'm going to  
15 cover in a little bit.

16 Right now what I wanted to talk about is if he was  
17 trying to deceive these people, why would he hand them that  
18 paperwork? If he wanted them to think, "Oh, I'm the tandem  
19 examiner and everything is completely fine," why would he hand  
20 them paperwork with someone else's name on it with lies that  
21 the candidate would have to sign? Why would he do that?

22 If he wanted to deceive them, he could have given them  
23 blank paperwork, had them fill it out, and then gone back to  
24 his desk secretly, and put Yuri's name on it.

25 Or how about this: He could have had the signatures

1 prefilled, saying, you know, signature on this line, but just  
2 not had the name "Yuri Garmashov" written there in black and  
3 white. Wouldn't that have made a lot more sense?

4 Then he could have told these people, "Oh, don't  
5 worry. That's my signature. I just prefilled it." And then  
6 later, for the USPA, he could have written "Yuri Garmashov."

7 That would make a lot more sense, if he was trying to  
8 hide it from these people. He was not trying to hide it, in  
9 fact. He took the paperwork, and he handed this paperwork to  
10 the candidates.

11 Now, you heard it's the responsibility of the examiner  
12 to do the paperwork. That's not what he did. He involved the  
13 candidates in filling out the paperwork. He showed them Yuri's  
14 signature. He showed that all to them in a time that they knew  
15 Yuri hadn't been there.

16 Now, another way we know what the candidates knew at  
17 the time is from some things that Mr. Garmashov admitted on the  
18 stand. Now, as you saw, he was not happy to be here. He was  
19 not happy to answer my questions. He was fighting me every  
20 step of the way.

21 But he did admit one thing, which is that he comes  
22 back to the Parachute Center in August, and he talks to some of  
23 these people who were trained. And what do they know? They  
24 know Yuri's signature is on their paperwork. They know Rob is  
25 training them and Yuri is signing off. They know that the

1 paperwork is going to be submitted when Yuri gets back.

2 Now, there's no reason that Yuri Garmashov should  
3 have, on the stand, said those things if they weren't true.  
4 Like, that's not part of this narrative that he's spinning for  
5 himself, but he still admitted that is what happened.

6 All right. And then I wanted to talk about Exhibit 4  
7 and what this paperwork shows, as well. Okay.

8 So this is the e-mail that the -- the Government was  
9 just talking about where Mr. Pooley sends the application for a  
10 Lachlan Mackay, who goes by "Morgan."

11 Let's go to the next page, please. Third page,  
12 actually. Sorry. Okay.

13 And then this was signed off by Yuri Garmashov, having  
14 trained, as we've talked about.

15 Now, is there any evidence that Mr. Mackay knew that  
16 this was Rob Pooley sending this paperwork? Let's take a look  
17 at that, because this e-mail was signed "Yuri." So the  
18 Government is saying that was deceptive, that was deceptive on  
19 Mr. Mackay. But was it?

20 I would like to pull up Exhibit 2134. Oh, I'm sorry.  
21 34-R. 2134-R.

22 MS. LYDON: Objection to that not-in-evidence  
23 document.

24 MS. CRAGER: Ignore that. Sorry.

25 THE COURT: All right. It's off the screen.

1 MS. CRAGER: Yeah. It's off now. It's redacted now.  
2 I'm sorry about that.

3 MS. LYDON: That was up for about eight seconds.

4 THE COURT: All right. That was a mistake, and  
5 nobody -- nobody saw it. I didn't even -- I think I must have  
6 been looking down. Anyway, if there was something on there  
7 that wasn't in evidence, the jury will disregard it.

8 MS. CRAGER: Okay. So this e-mail is from the same  
9 Morgan, Morgan Mackay, at that same e-mail address.

10 What's important about this e-mail is that he is  
11 reaching out to Rob Pooley about his ratings. He says: "I was  
12 hoping you could let me know what stage my rating is at or was  
13 at so I can figure out how to proceed?"

14 Now, if he had been misled by Mr. Pooley into  
15 believing that, "Oh, this was all above board. Don't worry.  
16 Yuri is going to send this e-mail to sign to Yuri," why would  
17 he be reaching out to Rob Pooley? And this is at Rob Pooley's  
18 personal e-mail address, not even the e-mail address that  
19 originally sent the paperwork.

20 The candidates were not deceived. They knew that to  
21 get their paperwork -- sorry -- to get their ratings that Rob  
22 Pooley and them, they would have to lie in the paperwork to  
23 USPA.

24 You can take that down.

25 All right. And I want to talk about an important

1 point that the Government has brought up, which is that people  
2 were upset. Now, I agree people were upset about this after  
3 this happened. Okay. What I take issue with is that the  
4 Government has tried to connect the dots to say people were  
5 upset about this and, therefore, that's how we knew they were  
6 defrauded.

7           Here's another version. Rob Pooley let them know what  
8 the plan was in the paperwork. The plan didn't work. They  
9 didn't get what they wanted, and so they were legitimately  
10 upset about that.

11           They were upset at Mr. Pooley because this was  
12 Mr. Pooley's idea. No one came to the drop zone saying, "Oh, I  
13 really want to get my ratings, but I also want to lie to the  
14 USPA." Like, no one started out there. They got there. This  
15 became clear.

16           It was Rob Pooley's idea. So when it doesn't work  
17 out, of course they blame Rob Pooley and, honestly, of course,  
18 he says "I'm sorry" because he's not a jerk. He knows that it  
19 was his idea to do it this way. He doesn't need to get petty  
20 about it and point out, "Well, I did tell you this thing  
21 because the paperwork showed you what was happening here, so  
22 how could you say that?"

23           He says, "I'm sorry. I'm trying to make it right.  
24 I'm trying to set up more classes. I'm trying to get refunds.  
25 There's so many people that I need to give refunds to. I'm



1     sorry."

2             Now, don't take my word for it. I want to look at  
3     those text messages that the Government was looking at on 32-R  
4     at page 5. Let's go down here.

5             All right. So this is a text message, I believe, that  
6     was quoted by the Government just now. And I want you to pay  
7     attention, question very closely what's happening here. Okay?

8             Brad North says: "You, Rob Pooley, are responsible  
9     for this because of a choice you made to surreptitiously  
10    conduct a course while being unsupervised and unqualified."

11            Okay. He's saying, "This was your idea to do this  
12    surreptitiously with the USPA and not follow their rules, and  
13    try to go under the radar of the USPA. That was your idea, and  
14    I'm mad about that, and you are responsible."

15            Let's also look at Exhibit 20. And this is the e-mail  
16    where Mr. Palomino is very upset; again, legitimately upset.  
17    So let's look at that.

18            And is there a 30-R? Sorry.

19            MS. LYDON: Yes.

20            MS. CRAGER: A 20-R. Okay. Let's do the 20-R. It's  
21    just expletives that are taken out. Sorry about that.

22            Okay. Now, this is the e-mail where, after the fact,  
23    Mr. Palomino is very upset with Rob Pooley and with Bill Dause  
24    and with a lot of other people. Okay. And this is what he's  
25    upset about. This is what he's blaming Rob Pooley for. Okay.

1           And this is a reasonable interpretation of what he's  
2 saying here: "You, Rob Pooley, were willing to falsify my  
3 ratings. It was your idea to go to the USPA and try to get me  
4 false ratings." This does not say that he was deceived the  
5 whole time.

6           All right. We can take that down.

7           Now I want to talk about something that I think was  
8 implicit in what the Government was saying to you. It's clear  
9 we only heard from three people who were trained that summer.  
10 And I think what's implicit to what the Government is saying is  
11 that "Don't worry about all these other people. They were all  
12 part of the same scheme, and if they testify, they would have  
13 said essentially the same thing."

14           I think that's implicit to what they're saying because  
15 they're charging in the document a whole scheme with everyone  
16 who was trained that summer, and yet they only bring three  
17 people who, honestly, say three very different things.

18           So the truth is, who knows what all of these other  
19 people would have said? We know that they existed. We know  
20 that the Government found them. We know that they chose not to  
21 come here. There are a couple of other people that, of course,  
22 the Government could not bring because, unfortunately, they're  
23 now deceased. I'm not saying that's the fault of the  
24 Government at all, of course. What I'm saying is you can't  
25 just assume what they would have said. You can't assume that

1 they would have gotten on the stand and told you that they were  
2 deceived. There's no evidence of what they would have said.

3 Now, you also can't assume -- and I just wanted to  
4 emphasize this. You can't go back to the jury room and say,  
5 "Well, let's assume that all the other people felt the same as  
6 these three people on the stand, unless the defense can show us  
7 something different."

8 As we've talked about, that's the opposite of your job  
9 back there. Okay. So if you didn't hear from somebody, we  
10 don't know what they would have said, and that's the end of  
11 that.

12 Now, the very problem, I think, is they brought three  
13 people to talk about what happened here. They have to prove  
14 that there was the scheme, beyond a reasonable doubt.

15 So imagine if they just brought one person. They had  
16 a whole scheme of what happened, and they brought a single  
17 person to say, "Rob Pooley told me individually" these things.

18 Would that be enough? I submit to you that three  
19 people is not some magic number where you can just extrapolate  
20 to everybody else who was there, especially when these three  
21 people are talking about conversations that happened eight  
22 years ago. Honestly, I think they have some credibility  
23 problems that we'll talk about.

24 But just taking what they said in saying that must  
25 have happened to everybody, that is not an inference that you

1 can make, it's not justified by the evidence, and it is not  
2 proof beyond a reasonable doubt.

3 Now, the Government spent quite a while playing  
4 different statements that Mr. Pooley has made to agents. The  
5 issue with this, I think, is mostly that this is all a red  
6 herring. These statements happened years later in 2018 and  
7 2021.

8 What Rob Pooley was concerned about at that time,  
9 working at the Parachute Center where they executed the search  
10 warrant -- and he was there, and he was there again in 2021.

11 What everyone was concerned about was how the FAA felt  
12 about this, whether they could continue running the parachute  
13 organization there. They were not concerned with explaining  
14 the details of what the candidates knew and didn't know.

15 In fact, as you've heard, he never said, "Oh, I was  
16 doing this, and I was hiding it from the candidates." He has  
17 never said that. What he's saying in most of these clips is  
18 he's trying to justify why, I guess, maybe, the training might  
19 have been okay to the FAA. That's what this is about.

20 So all of those clips are quite confusing, honestly.  
21 And I submit to you that's a red herring with later,  
22 after-the-fact justifications of what happened that don't go to  
23 the core issue in this case, which is what he told the  
24 candidates and what he represented to them on the paperwork.

25 Now, the Government has also talked a lot about how he

1 didn't submit the paperwork, and they want you to infer that,  
2 therefore, he never intended to submit the paperwork and,  
3 therefore, it was fraud.

4 Now, there are a few problems with this. One is that  
5 he did submit some of the paperwork. Count 4 is him submitting  
6 the paperwork. So if he never intended to submit the  
7 paperwork, why did he submit the paperwork?

8 The other problem with it is that there is evidence  
9 that the plan was, they'll submit the paperwork when Yuri comes  
10 back. That's what he told to Brad North in the text messages.

11 And also I want to look at 2060, which is the text  
12 messages with Yuri. You can read these text messages and  
13 interpret what you want to interpret.

14 Let's go to page 2.

15 Now, you heard Yuri Garmashov testify in this text  
16 message -- let's just zoom in here -- in this text message --  
17 excuse me -- he was asking: "How many candidates were trained  
18 this summer? How much paperwork do we have that hasn't been  
19 submitted yet?" Right?

20 And Rob responds: "The ones you have." Right?

21 Let's zoom out of there. Let's go to the next page.

22 And this is the last thing that he says: "Anything  
23 that I submit from now on can't be processed by the USPA."  
24 That refers to a previous part of a conversation.

25 We can take that down.

1           Now, I submit to you that this is an acknowledgment by  
2 Yuri Garmashov that he comes back to the country, and Rob  
3 Pooley gives him the paperwork. So when he asked, "How many do  
4 we have? How many have been submitted? Because we can't  
5 submit it. I'm very nervous about this."

6           Rob Pooley says, "Oh, the ones you have, the ones I  
7 already gave you."

8           Now, I submit to you that that's evidence that Yuri  
9 Garmashov is lying to you. He did allow Rob Pooley to do this.  
10 And he came back and he looked at the paperwork, and they were  
11 just going to submit it.

12           Let's look back at the text message, actually, one  
13 more time.

14           2060, please.

15           And it's clear that they have some conversation.

16           "Should we chat sometime?" They talk about when to  
17 meet, and then after they chat -- and I submit to you that the  
18 conversation went, "Well, we have this paperwork. Let's just  
19 try to submit it and see if we can get it through."

20           After that conversation, Rob gets wind of something,  
21 and he says: "Yuri, have things changed since we talked this  
22 morning?"

23           And Yuri replies: "Yes. Things have changed because  
24 UPT will not process any paperwork because" -- I don't know  
25 anything about USPA yet -- because he was not in the country

1 when the training was happening, and USPA and UPT know that.

2           The plan changed only because the Parachute  
3 Association and UPT found out about it before they submitted  
4 the paperwork. That is why the paperwork was never submitted.  
5 Mr. Pooley intended to submit the paperwork, but this is why  
6 this never happened.

7           You can take it down.

8           I want to talk briefly about the jury instructions.  
9 There are a lot of elements in there, and I'm not going to  
10 rehash what the Government already told you. You will have  
11 jury instructions that go through each and every element. You  
12 should study those closely.

13           I know they said, question each piece of evidence to  
14 determine whether it really proves those elements. I did want  
15 to touch on some of the elements that you're going to see in  
16 there. One of them is that the Government must prove that Rob  
17 Pooley had an intent to deceive the candidates; the candidates,  
18 not the USPA.

19           We all know that Rob Pooley was trying to deceive the  
20 USPA and, in my opinion, so was Yuri Garmashov and so were some  
21 of the candidates. But in terms of whether Mr. Pooley had an  
22 intent to deceive, that is only about his intent towards the  
23 candidates. He must have been trying to deceive them in order  
24 to be guilty of any crime here.

25           Also, I wanted to talk briefly about what the

1 Government called a "trust relationship" because, as the  
2 Government acknowledged, it's not just that they have to prove  
3 that there were things Rob Pooley didn't tell them. It was  
4 clear there were some things Rob Pooley didn't tell them up  
5 front. That doesn't get them all the way to a fraud  
6 conviction.

7           What they need to prove is that Rob Pooley had a  
8 special legal duty to tell the candidates those things. That's  
9 the only way that it's criminal fraud, which is what we're  
10 talking about here today. So the Government has just told you  
11 that all they need to show is that the candidates trusted  
12 Mr. Pooley. That is not correct.

13           Look at the jury instructions and what they say. I'll  
14 just emphasize that you need to focus on what Mr. Pooley  
15 induced the candidates to do, and whether he induced them to  
16 just not look and relax. Okay. And, specifically, about the  
17 paperwork. We all know that skydiving is dangerous and  
18 different than other skydiving. That's not what this is about  
19 either.

20           We have to look at what Rob Pooley wanted these people  
21 to do with their paperwork, what he was communicating with  
22 about -- communicating to them about the paperwork.

23           Now, you have heard that an examiner is responsible  
24 for the paperwork. An examiner should handle the paperwork.  
25 So they trusted him to do that, but that's actually not what he



1 did. What he did was he brought the paperwork to them. He  
2 said, "Sign this paperwork." He said, "Fill out the dates in  
3 this paperwork."

4 He didn't have to do that. If he was trying to induce  
5 these people to relax and not look any further, why would he  
6 involve them in that? Why would he involve them in the lies in  
7 the paperwork?

8 I want to talk about Counts 5 and 6, which are in your  
9 jury instructions in Instruction 12, which you'll get after the  
10 Judge instructs you. Those are about counts -- the aggravated  
11 identity theft counts.

12 Now, what's important about these counts is that the  
13 Government must prove that the signature itself on that  
14 paperwork was used to defraud the candidates, that the  
15 signature itself was a deception to the candidates.

16 It's clear it was deceptive to the USPA, but that's  
17 not what we're talking about. The Government must prove it was  
18 deceptive to the candidates. The Government must also prove  
19 that that signature on that paperwork was central to the whole  
20 fraud, was at the crux of the fraud, is how the jury  
21 instructions describe it.

22 So what was the crux of the fraud? Let's start there.

23 As the Government has told you, the central theme of  
24 this fraud was supposedly Rob Pooley holding himself out as an  
25 examiner, but the signature proved that he wasn't the examiner.

1 That's the opposite of the fraud.

2 The Government has also said the signature was used to  
3 lull these people, to make them happy, make them think that  
4 everything was fine. That's the opposite of what happened.

5 Fabian Munoz saw the signature on somebody else's  
6 paperwork, supposedly, and got up in arms about it. That's  
7 what set off tons of red flags for him, supposedly.

8 And these other people, they look at it. They're at  
9 least questioning what is going on here. Even Mr. Palomino,  
10 who said, "Oh, actually, I didn't really look at it much.  
11 Didn't ask about it," he admitted that it was strange. And you  
12 also heard he did make a previous statement where he admits he  
13 did ask about that.

14 It was very strange, at the very least. That is not  
15 something that keeps a fraud going. That is not something that  
16 makes people happy. That is something that sets off a red  
17 flag, and that is why the signature could never be at the  
18 center of this alleged crime.

19 I want to talk, briefly, about the witnesses you did  
20 hear from. Now, Yuri Garmashov, I have talked about a bit  
21 before, and as the Government just pointed out in their  
22 argument, he didn't get on the stand and admit, "Oh, yeah, I  
23 did let Rob Pooley use my signature" because, obviously, he's  
24 not going to admit that right now, given everything going on in  
25 his life.

1           Also, we learned during his testimony that the  
2 Parachute Association representative is, apparently, sitting in  
3 the room, so of course he's not going to admit that. But it's  
4 clear he's got something to hide. There is evidence that he  
5 allowed Mr. Pooley to train people while he was out of the  
6 country. And you might remember the exchange I had with him  
7 about the paperwork for a person named Vicki Allen.

8           I'd like to pull up 2132 at page 9.

9           So if you recall, this is the portion that I was  
10 questioning him about most, that these dates are on August 22nd  
11 when, according to -- and I'll give you the number --  
12 Exhibit 61 at page 7 -- he was in Canada.

13           He tried to walk that back and to say, "Oh, no, no,  
14 no. That's actually not part of the training."

15           But does that make any sense? This is all on the  
16 paperwork that he has to sign off on. He let Rob Pooley use  
17 his signature while he was out of the country.

18           Let's look briefly at these other dates.

19           This is 821 here. We can pull out of that.

20           All of these dates here are August 21st, and I won't  
21 go through all of it right now, but if you look at Exhibit 61  
22 at page 7, that shows the CBP record of him getting on a plane.  
23 He was sitting on a plane that day. He was not at the  
24 Parachute Center doing detail training with people. He was  
25 sitting on a plane.

1           This proves that he was letting Rob Pooley use his  
2           signature while he was out of town; that in addition to the  
3           text messages we looked at earlier with his response, asking  
4           Rob, "Oh, how many people were trained this summer?" Rob says,  
5           "The ones you have."

6           That is the evidence that Yuri Garmashov was lying to  
7           you.

8           We can take that down.

9           I want to talk to you, also, about the three people  
10          that were trained that summer who decided to come.

11          Now, Fabian Munoz -- I will just submit to you that  
12          his version of events doesn't really line up with what the  
13          evidence shows in this case.

14          Rob Pooley never introduced himself to anybody saying,  
15          "Oh, hi. I'm the USPA tandem examiner, and I shall train your  
16          course and sign off on your paperwork."

17          We have Mr. Pooley's communications with people.  
18          Those are in e-mails at Exhibit 2, 913, 914, and 915. And he  
19          was not telling people, "Oh, hi. I'm the examiner."

20          So what the Government had on the slides for you with  
21          quotes, that was Fabian Munoz's memory of a phone conversation  
22          that happened in his non-native language eight years ago.

23          As to Mr. Palomino, I think it's clear that it was  
24          kind of unclear who his examiner was, and that was unclear to  
25          him. But he did take a look at the paperwork and acknowledged,

1 that, yeah, those were lies to the USPA, and those were on his  
2 paperwork.

3 Brad North -- I want to talk about Brad North. Now,  
4 you can have your own evaluation of him on the stand, but he  
5 seemed like a smart guy. He seemed like he knew what to say on  
6 the stand, and he was being a little bit defensive, at least  
7 when my cocounsel was questioning him.

8 Now, his story was, "I thought Rob Pooley was an  
9 examiner because he examined me on my coach rating, and  
10 everything was above board. And Rob Pooley signed off on my  
11 papers for my coach rating. That proved to me that he was my  
12 examiner, and so when I came back later, of course I assumed  
13 that he was my examiner."

14 Now, the prosecutor got up then while he was  
15 testifying and went over that point over and over and over  
16 again, but it turns out that was completely untrue.

17 So let's look at the evidence.

18 I want to turn to 2188, page 2, please.

19 This is Brad North's coach proficiency card, and look  
20 at what's on it; a whole pile of signatures of Yuri Garmashov.

21 Let's go to the next page, please.

22 More signatures of Yuri Garmashov with the same rating  
23 recommendation: "I have personally examined and remember this  
24 applicant for the USPA coach rating."

25 What Brad North told you was a lie. He had been

1 through this all before. He filled out these dates. He filled  
2 out this date right under Yuri Garmashov's signature. He'd  
3 been through this before. He had seen these signatures before.  
4 So when he got on the stand and said, "I was caught off guard  
5 with his signatures. I didn't know what to do," that was a  
6 lie. He had been here before, he had seen the signatures, and  
7 he was doing it again.

8 Now I want to talk about what was not presented to you  
9 during this case, because I think there are some serious  
10 questions that remain about what really happened here. And  
11 these serious questions, those are reasonable doubts.

12 You've heard from three people, but where is everyone  
13 else? Where is Richard Keir, Mr. Jeffit, Mr. Creed, who all  
14 got their legitimate ratings? Where is Vicki Allen and  
15 Spurgeon, who were trained while Yuri was out of the country or  
16 out of town? Where is Danny Overeem? Carlos Martinez?  
17 Joaquin Gomez Pasis? Sang Yeul Jeong? Where are these people?  
18 They were trained that summer. Where are they?

19 And this is a big one: Where is Morgan Lachlan  
20 Mackay? He's charged in Count 4 and Count 6.

21 Also, who is Morgan Lachlan Mackay? We didn't hear a  
22 single person tell us anything about Morgan Lachlan Mackay. We  
23 didn't hear anything about what he was told about the  
24 paperwork.

25 And here's a question: Why was Mr. Mackay's paperwork

1 the only paperwork that was submitted? You know that everyone  
2 was asking for their paperwork to be submitted, according to  
3 the Government's case. So why was it only Mr. Mackay's  
4 paperwork?

5 I submit to you that is a serious question in this  
6 case. You cannot answer that question because there's no  
7 evidence of it, and for that reason, the Government has failed  
8 to meet their burden.

9 The Government is asking you to guess. The Government  
10 is asking you to presume. The Government is asking you to  
11 guess this man's way into federal prison. This is a serious  
12 matter, and the Government needs to bring proof beyond a  
13 reasonable doubt.

14 After I sit down, the Government is going to have the  
15 last word, and I ask you to not just take them at their word  
16 but to really scrutinize the evidence. Look at the evidence in  
17 black and white. Look what's really written there. Think  
18 about whether there are other interpretations of what could  
19 have happened. When you're evaluating that, think about the  
20 witnesses they had. Think about how forthcoming the witnesses  
21 were, and the Government was in presenting this case to you.

22 When they put on Brad North, they were endorsing his  
23 story about how, of course, Rob trained him and used Rob's own  
24 signature, and that just was not true. And they didn't show  
25 you that paperwork. We had to bring it for you.

1           You might remember a whole discussion we had about the  
2 Sigma tandem manual. I didn't think a manual could be that  
3 controversial, because they tried very hard to try to prove  
4 that this manual either didn't exist or wasn't the right date.  
5 Who knows what was happening with this manual. They tried to  
6 get their witnesses to say that Rob Pooley had never mentioned  
7 this manual to them.

8           Think about why that is, and look at that. That's  
9 Exhibit 2000. Take a look at that and think about why the  
10 Government didn't want you to see that.

11           Also, the Government never brought Yuri to see you.  
12 Yuri was only here because I had to bring him to show you what  
13 he's really like. Yuri was cooperating with the Government  
14 since the beginning of this. Yuri was providing evidence to  
15 the Government, supposedly, these letters, anything else that  
16 he had to prove his case. The Government wanted him to remain  
17 in the shadows. And after he testified, I think you know why.

18           Now, the last thing I'll say is, the Government, I  
19 believe, is twisting some of the facts in this case.

20           I want to talk specifically about Counts 5 and 6 that  
21 require the Government to prove to you that Rob Pooley used the  
22 signature of Yuri Garmashov deceptively on the students.

23           The Government has told you that what was happening  
24 here was Rob Pooley was pretending to be an examiner, and  
25 that's what this case is about, and that he used this



1 paperwork, apparently, to help him do that. That's twisting  
2 the facts, though.

3 That paperwork clearly says in black and white he is  
4 not the examiner. Somebody else is the examiner. How could  
5 that be part of the fraud?

6 The Government also told you that Exhibit 4, Lachlan  
7 Mackay's paperwork, is at the crux of this crime, and it was  
8 furthering the whole thing, but they told you five minutes  
9 before that, that the reason Rob Pooley didn't submit any  
10 paperwork is that it would have blown the whole scheme up.

11 They're twisting everything on its head, and why are  
12 they doing that? They want to win. They want Mr. Pooley to be  
13 guilty of aggravated identity theft. And these are the  
14 gymnastics that they have to go through to try to get you to  
15 believe that.

16 Ladies and gentlemen, in this case, it isn't black and  
17 white that Rob Pooley let these people know how he was going to  
18 get their ratings. They were not deceived. He did not use  
19 Yuri Garmashov's signature to deceive them.

20 The Government has not proved its case, and I ask you  
21 to return the only just verdict in this case: Not guilty.

22 Thank you.

23 THE COURT: Ms. Lydon, would you like to begin your  
24 rebuttal argument at this time?

25 MS. LYDON: Yes. I need just a few minutes. If we

1 want to do an early lunch break, we can do that --

2 THE COURT: You wanted to do what?

3 MS. LYDON: -- to organize notes.

4 THE COURT: Pardon?

5 MS. LYDON: If we could do an early lunch break, if  
6 the jury wants to go now, or I can just take two minutes --

7 THE COURT: Just take a couple of minutes. I want to  
8 use the time.

9 MS. LYDON: All right. Excellent.

10 So I used perhaps too much technology the first  
11 go-round, and now we're going to go the very low-tech route.  
12 But I just want to respond to a few points that defense counsel  
13 just made.

14 As an overarching point, it is really convenient how  
15 the -- as the defense argued, the defendant committed fraud, a  
16 fraudster, but somehow committed fraud in exactly the way that  
17 makes him innocent in this case.

18 The construction provided just now is not consistent  
19 with the evidence, and it's not consistent with reason and your  
20 common sense. You'll be instructed that a reasonable doubt has  
21 to be one based in reason and common sense. Use your common  
22 sense.

23 Let's think about some things. The defense argued  
24 that all the victims who testified against Pooley are lying.  
25 You are the judges of credibility. The jury instruction

1 provides specific criteria that you can evaluate when you're  
2 considering who's telling the truth and who's lying.

3           The defense counsel all asked -- asked each of these  
4 witnesses, didn't they know? Didn't they realize that Rob  
5 wasn't the examiner? And they squarely answered. The idea  
6 that they would have signed up for his course, knowing that he  
7 was a revoked, suspended examiner doesn't satisfy common sense.

8           And just now, defense counsel seems to have admitted  
9 that they didn't know that. She said, "No one came to the drop  
10 zone saying, 'I want to lie to the USPA.'"

11           It was Rob Pooley's idea. Ladies and gentlemen, if  
12 Rob Pooley lured these students to his drop zone by convincing  
13 them that he was a certified USPA examiner who could give them  
14 their ratings and then he took their money, that's fraud, and  
15 he's guilty. There's no evidence that he did anything other  
16 than that.

17           I want to go through some specific, sort of,  
18 aspersions cast on various witnesses and theories. We'll start  
19 with the -- the three testifying tandem examiners.

20           So defense counsel argued that Fabian Munoz's  
21 testimony was not credible because Rob Pooley wouldn't have  
22 said, "I'm the USPA examiner," because he didn't say that in  
23 the e-mails. Use your common sense. You know how people talk  
24 in e-mails. It's different than how they talk on phone calls,  
25 especially when the person they're speaking with may be asking

1    them direct questions about whether they're a USPA examiner,  
2    because that's something that the witness cares about.  You  
3    heard Fabian Munoz testify about that.  You're the judge of  
4    credibility.

5                Fabrisio Palomino, defense counsel claimed, said it  
6    was unclear who Fabrisio Palomino's examiner was.  Well, the --  
7    the contemporaneous documents don't reflect any lack of clarity  
8    on that -- in that regard.

9                THE COURT:  That's pretty heavy.

10              MS. LYDON:  Yes.  We need some physical comedy here.

11              But I want to show you a contemporaneous text message  
12    that shows what Fabrisio Palomino thought at the time.  All  
13    right.  This is a little coarse because Fabrisio Palomino was  
14    upset.  He said:  "Bill told me Rob was my examiner."  That's  
15    pretty darn clear.  This is to his friend Surgii.  He's not on  
16    the stand.  He's not -- not that he was -- in this  
17    contemporaneous text message and on the stand, Fabrisio  
18    Palomino had no interest in the outcome of the case, which is a  
19    fact you can consider.  He had no reason do anything other than  
20    testify truthfully here.

21              And to be candid with his friend Surgii, when he said,  
22    "Bill told me Rob was my examiner," you can infer because he  
23    wrote that, because that's what happened, and that's what he  
24    believed.

25              With respect to Brad North, now, Brad North testified

1 at length. He explained his reaction when he saw the paperwork  
2 with Yuri Garmashov's signatures on it on his tandem instructor  
3 course. You saw his contemporaneous text messages directly  
4 between him and the defendant, explaining how the defendant  
5 defrauded him, using some very clear wording.

6 The defense counsel just argued that his -- because  
7 his coach rating card also included Yuri Garmashov's signature,  
8 he lied to you. Now, that's true. It did include Yuri  
9 Garmashov's signature. We don't know what Brad North would  
10 have said about that if asked about it.

11 Defense counsel didn't ask him about it. Now, you'll  
12 get a jury instruction on witness credibility, and it says,  
13 essentially -- I mean, I'm paraphrasing; I'll read it to you in  
14 a moment -- some people don't notice things, and some people  
15 forget. Sometimes a witness may say something that is not  
16 consistent with something else he or she said. Sometimes  
17 different witnesses will give different versions of what  
18 happened. People often forget things or make mistakes in what  
19 they remember.

20 You saw Brad North. You saw his demeanor. You heard  
21 his testimony that he did notice that Yuri Garmashov's  
22 signature was on his tandem examiner -- or his tandem  
23 instructor card, and about his conversation with the defendant  
24 when he asked about it.

25 It's entirely possible you could infer he didn't

1 notice it on the coach card. We don't have that in evidence.  
2 But it is not a reason to conclude that Brad North lied to you,  
3 as defense counsel said.

4 Defense counsel discussed Pooley's lack of intent to  
5 defraud. We went over this. This was the -- this was, in  
6 closing, in my first discussion with you. But an intent to  
7 defraud is an intent to deceive or cheat. It's really simple.  
8 You know that someone intends to defraud you when they lie to  
9 you and they hide things from you, and that's what Pooley did  
10 in this case.

11 And defense -- and the attempt to justify his, really,  
12 tortured lies after the fact doesn't make sense. It was stated  
13 that the statements that Rob Pooley made to agents when he was  
14 concerned about was -- or what he was concerned about was the  
15 FAA. He was trying to justify how the training might have been  
16 okay in the eyes of the FAA. This is not relevant. What he  
17 did is he lied about whether he was certified in the summer of  
18 2016, by the manufacturer.

19 He lied to the agents. And if he didn't have an  
20 intent to defraud, he didn't need to do that. Saying he was  
21 lying for a different reason to try to justify his actions in  
22 the eyes of the FAA does nothing to disturb the conclusion that  
23 he is -- had the intent to defraud when he was lying to agents,  
24 and that that is indicative of his intent to defraud the  
25 students.

1           The idea that there was a plan to submit the documents  
2 when Yuri got back, now, there's no evidence of that, and it  
3 doesn't matter legally. It is completely irrelevant.

4           So let's take those two things in turn.

5           The defense called Yuri Garmashov. You heard him  
6 testify. He denied that. Rob Pooley said that Yuri didn't  
7 know about the -- any of his actions over the summer and was  
8 not involved in the scheme. He said that in a signed letter.  
9 Then he got it notarized twice. Then he told the agents that  
10 he wasn't forced to say it. So everyone was unanimous that  
11 Yuri did not engage in any kind of plan over the summer of  
12 2016.

13           Obviously, there was an agreement to use the  
14 signatures beforehand. But this is all a distraction. It  
15 doesn't matter if Yuri, as defense counsel insinuated, did  
16 somehow become an after-the fact co-conspirator. They came  
17 back, and they had this conversation that there's no evidence  
18 of in the record, that they -- he would submit things later.  
19 That doesn't make Pooley any less guilty.

20           Pooley was a participant in the scheme to defraud.  
21 Pooley ran the scheme to defraud. But if Yuri helped, too,  
22 that doesn't do anything to change that Pooley is guilty of  
23 each and every element in this case. It doesn't matter for  
24 wire fraud. It doesn't matter for aggravated identity theft.

25           Now, the aggravated identity theft argument appears to

1 be -- if I'm construing it right, is that there was -- the  
2 signatures couldn't have been at the crux of the scheme because  
3 the signatures raised red flags because students questioned the  
4 signatures.

5           Signatures were at the crux of the scheme for the  
6 reasons I explained earlier today. The students knew that the  
7 only way that they could get tandem instructor ratings was to  
8 obtain forms signed by a certified, valid USPA and UPT  
9 examiner.

10           Pooley told you -- Pooley -- you heard a recording  
11 earlier today that Pooley admitted he wasn't a certified USPA  
12 and UPT examiner, that USPA wouldn't have taken the forms with  
13 his own signature on it, so Yuri had to sign.

14           The -- Yuri's signature was the tool that Pooley had  
15 to commit the crime. It was the signature of a certified USPA  
16 examiner, so that's what he used. The fact that some students  
17 kind of raised their eyebrows when they saw it, that it didn't  
18 go off completely without a hitch in every circumstance, that  
19 it didn't succeed in completely quelling their concerns about  
20 it, it doesn't mean that that's not how he used it and that  
21 that wasn't the most important tool in his arsenal to keep  
22 making money.

23           He could never have run these courses if he hadn't  
24 been able to produce paperwork bearing the signature of a  
25 certified USPA and UPT examiner.



1           We went over this at length in opening, so I won't  
2 repeat all of that evidence. But in summary, you saw what  
3 happened to Fabian Munoz when Fabian said, "You need to sign  
4 these forms."

5           Pooley didn't turn it over, and Fabian pestered him  
6 day and night for a week. The other students, the one he did  
7 send forms to, and he said -- or he did provide forms to, took  
8 them back and said, "I will send them to USPA and UPT."

9           They thought things were moving along, so they didn't  
10 raise the alarm. And Pooley was able to continue the cycle of  
11 courses and the cycle of money, over a thousand dollars a pop  
12 per student in cash to Pooley and the Parachute Center.

13           The signatures were the tool that enabled him to do  
14 that. This might be obvious but, obviously, Pooley couldn't  
15 use his own signatures, not just because he couldn't send his  
16 own signatures to USPA and UPT, but the -- if he handed out  
17 forms with his own signature that was on them, the students  
18 could have sent them to UPT. That would have been a dangerous  
19 tool. It wouldn't have worked. He didn't do it. He chose to  
20 use Yuri's signatures.

21           Defense counsel also said that it doesn't make sense  
22 or you can't conclude that Pooley would have -- basically,  
23 Pooley should have done the crimes smart -- in a smarter way.  
24 It's not a defense that Pooley should have been a more  
25 effective criminal, that he should have, as defense counsel

1 suggested, taken the forms back, not -- and then filled out  
2 Yuri's signature. He should have not provided them with the  
3 name so visible. Pooley -- if Pooley made mistakes in the way  
4 that he carried out his crime, that does not constitute a lack  
5 of intent to defraud.

6 I want to hit a few more discrete points on the  
7 students' Live Point, because I'm just noticing some -- the  
8 note-card organization method is not entirely succeeding, but I  
9 want to make sure -- I want to respond to some of these because  
10 they're important.

11 As defense counsel said, "I submit to you that Rob  
12 Pooley told people we can get these ratings, but we're going to  
13 have to do it under the table." No witness testified to that.  
14 That is nowhere in the record. You are the judges of  
15 credibility. Evaluate whether that happened.

16 Defense counsel said the fact that some students got  
17 their ratings means Rob Pooley did not intend to deceive them.  
18 That's not what the jury instruction said.

19 The element that -- of the intent to deceive means  
20 that Rob Pooley had the intent to deceive his students and  
21 cheat them, and what he offered them was legitimate ratings,  
22 and he knew he couldn't give those. That is the intent to  
23 deceive. That element is met. The fact that some of them got  
24 their ratings does not negate that on there.

25 Defense counsel argued that the fact that they got

1 paperwork that said Yuri Garmashov was the examiner, they knew  
2 he hadn't trained him. He didn't say, "We'll get ratings and  
3 we'll all be above board."

4           The witnesses testified that Pooley, the examiner, was  
5 the one responsible for the ratings -- or for the ratings and  
6 the paperwork. They deferred to him on this critical point.  
7 They raised questions, and he brushed them off.

8           North, in particular, he was questioned about filling  
9 out, in compliance with Pooley's instructions, the dates on the  
10 tandem examiner rating cards, and did that mean he knew? And  
11 faced squarely with that question, North explained, he said,  
12 "Well, I didn't know what it meant to supervise or what the  
13 requirements were for supervision." He relied on his examiner,  
14 and he filled out the forms.

15           Defendant's counsel argued, who knows what these other  
16 people would have said? And sort of listed off a series of  
17 people who you've seen evidence of but you didn't hear from in  
18 this case.

19           Now, I think two things on that. You do have evidence  
20 of what -- the scheme as it applied to the broader candidates.  
21 You saw e-mails with them. You saw the representations that  
22 were being made to them. You saw the false pretenses that  
23 Pooley was engaging with and the false statements that others  
24 in Parachute Center were affirmatively saying via e-mail to  
25 those students; so, you know, the representations being made to

1 the broader class through those ratings.

2           You also know, based on the testimony here, about  
3 the -- the skydiving community and how small it was, and what  
4 happened when Pooley's fraud came to light. Brad North  
5 explained that when the news did break that Pooley's ratings  
6 had been suspended and that no one had tandem examiner ratings  
7 who had been trained by him, it spread fast. He didn't  
8 remember who had told him because he heard it from multiple  
9 people.

10           You can know from that that Pooley just didn't tell  
11 people, because if he had, everyone would have known. It all  
12 would have come crashing down. He kept this secret, and he  
13 lied because he had to, to keep this cycle of classes going and  
14 making money -- and continue making money.

15           And this is true with Fabrisio Palomino, Kwon, Munoz,  
16 North, Morgan Lachlan Mackay, and all of the interest of the --  
17 or the tandem instructor candidates.

18           The listing off of missing witnesses, obviously, some  
19 students were located abroad. You are here to assess the  
20 evidence that came in in this courtroom. That is the evidence  
21 before you. The Government bears the burden. We welcome that  
22 burden. The burden never shifts.

23           The defense doesn't have to put on any evidence, but  
24 they did here, and they, too, have subpoenas. So the  
25 invitation to -- to speculate should be rejected with respect

1 to those missing witnesses.

2 Same with the -- I'm not going to spend much time with  
3 this, but the arguments about -- think about how forthcoming  
4 the Government was about -- and then the discussion of  
5 foundational objections to a tandem Sigma manual. The Judge  
6 instructed you the objections of the lawyers and questions of  
7 the lawyers are not evidence. That does not negate any of the  
8 elements at issue in this case.

9 And I ask that you focus on what you're here to  
10 decide, the elements, and will not get distracted by arguments  
11 along those lines.

12 I want to close with the -- some of the contentions  
13 made about the jury's task, and, specifically, "beyond a  
14 reasonable doubt" construction, how you should think of  
15 evidence.

16 The "beyond a reasonable doubt" instruction is really  
17 sensibly written. It will be with you in the jury room.  
18 "Beyond a reasonable doubt" means proof that leaves you firmly  
19 convinced, and a reasonable doubt is a doubt based on reason  
20 and common sense.

21 The -- some of the statements made, like "There will  
22 be questions you're left with," if you have a question, it  
23 means the Government has not proved their case. Well, that's  
24 not consistent with the law.

25 The -- specifically, the Government is not charged

1 with coming up with an answer to every speculative question  
2 that Ms. Crager raised. A reasonable doubt is a doubt based on  
3 reason and common sense, not based on pure speculation.

4 Your task is to assess whether each of the elements  
5 have been met beyond a reasonable doubt, and you will be  
6 instructed that if you do find that all of the elements have  
7 been met beyond a reasonable doubt, then it is your duty to  
8 find the defendant guilty, and that is the state of the  
9 evidence in this case.

10 There's other statements made that are just not in the  
11 "beyond a reasonable doubt" instruction, like if there are two  
12 or more versions of events, you must find the defendant not  
13 guilty. Follow the instructions.

14 I just want to make sure I caught everything before we  
15 get off to lunch. All right.

16 Rob Pooley sold a product he was not authorized to  
17 deliver, made promises he wasn't allowed to make. And his  
18 students lost a thousand dollars and more, each, as a result of  
19 that. And he used Yuri Garmashov's signature to commit that  
20 crime. He's guilty of wire fraud and identity theft.

21 Thank you.

22 THE COURT: That concludes the arguments.

23 Ladies and gentlemen, if I instruct you before the  
24 noon recess, we buy you lunch. If I instruct you after the  
25 noon recess, you'll be on your own.

1           So unless any of you have a serious problem with it, I  
2 would propose to instruct you now. My instructions will take  
3 about a little more than a half hour to give you.

4           Does anybody need a break before I do that?

5           All right. Would you like to take a five-minute  
6 recess? Let's do that, and then I'll instruct you on the law.

7           (The jury panel exited the courtroom.)

8           (Brief recess was taken.)

9           (The jury panel entered the courtroom.)

10          THE COURT: Please be seated.

11          The jurors are all present. Defendant is present with  
12 counsel.

13          Ladies and gentlemen of the jury, now that you've  
14 heard all the evidence and the arguments of the attorneys, it  
15 is my duty to instruct you on the law that applies in this  
16 case. A copy of these instructions will be available in the  
17 jury room for you to consult, if you should find it necessary.

18          It is your duty to find the facts from all the  
19 evidence in the case. To those facts, you'll apply the law as  
20 I give it to you in these instructions. You must follow the  
21 law as I give it to you, whether you agree with it or not.

22          And you must not be influenced by any personal likes  
23 or dislikes, opinions, prejudices, or sympathies. That means  
24 that you must decide the case solely on the evidence before  
25 you. You'll recall that you took an oath at the beginning of

1 the trial, promising to do that.

2 In following my instructions, you must follow all of  
3 them, and not single out some and ignore others. They're all  
4 important. And you must not read into these instructions or  
5 into anything that I may have said or done, any suggestion as  
6 to what I think your verdict should be. That is a matter  
7 entirely up to you.

8 The defendant has pled not guilty to the charges in  
9 this case. The defendant is presumed to be innocent unless and  
10 until the Government proves the defendant guilty beyond a  
11 reasonable doubt.

12 In addition, the defendant does not have to testify or  
13 present any evidence to prove his innocence. The Government  
14 has the burden of proving every element of each of the charges  
15 beyond a reasonable doubt.

16 Now, proof beyond a reasonable doubt is proof that  
17 you -- leaves you firmly convinced that the defendant is  
18 guilty. It's not required that the Government prove guilt  
19 beyond all possible doubt. A reasonable doubt is a doubt based  
20 upon reason and common sense and is not based purely on  
21 speculation. It may arise from a careful and impartial  
22 consideration of all the evidence, or from lack of evidence.

23 If, after a careful and impartial consideration of all  
24 the evidence, you are not convinced beyond a reasonable doubt  
25 that the defendant is guilty, it is your duty to find the



1 defendant not guilty.

2           On the other hand, if, after a careful and impartial  
3 consideration of all the evidence, you are convinced beyond a  
4 reasonable doubt that the defendant is guilty, it is your duty  
5 to find him guilty.

6           The evidence from which you may decide what the facts  
7 are consists of the sworn testimony of witnesses, the exhibits  
8 that have been received in evidence, and any facts to which the  
9 lawyers have agreed or stipulated.

10           In reaching your verdict, you may consider only the  
11 testimony, exhibits, and stipulations received in evidence.  
12 Certain things are not evidence, and you may not consider them  
13 in deciding what the facts are.

14           I'll list them for you:

15           Arguments and statements by the lawyers are not  
16 evidence. The lawyers are not witnesses. What they've said in  
17 their opening statements, closing arguments, and at other  
18 times, was not evidence. It was intended to help you interpret  
19 the evidence. But, again, it is not evidence. The facts -- if  
20 the facts, as you remember them, differ from the way the  
21 lawyers have stated them, your memory of them controls.

22           Next, questions and objections by the lawyers are not  
23 evidence. Attorneys have a duty to their clients to object  
24 when they believe a question is not permitted under the Rules  
25 of Evidence, but you should not be influenced by any objection

1 or by the Court's ruling on it.

2           Testimony that has been excluded or stricken or that I  
3 have told you to disregard is not evidence and must not be  
4 considered. In addition, some testimony or exhibits may have  
5 been received only for a limited purpose. Whenever I have  
6 instructed you that an item of evidence is admitted for a  
7 limited purpose, then you must consider it for that purpose and  
8 for no other.

9           Next, the charges in the -- against the defendant are  
10 contained in a document that is called an Indictment, and we've  
11 made reference to that during the course of the trial. The  
12 Indictment simply describes the charges the Government brings  
13 against the defendant.

14           The Indictment is not evidence in the case. As I  
15 instructed you earlier, the defendant has pled not guilty to  
16 the charges in the Indictment.

17           And, finally, anything that you may have seen or heard  
18 when court was not in session is not evidence. You are to  
19 decide the case solely on the evidence received at trial.

20           Now, evidence may be direct or circumstantial. Direct  
21 evidence is direct proof of a fact such as testimony by a  
22 witness about what that witness personally saw or heard or did.  
23 Circumstantial evidence is proof of one or more facts from  
24 which you could find another fact.

25           You should give consideration to both kinds of

1 evidence. The law makes no distinction between the weight to  
2 be given to either direct or circumstantial evidence. It is  
3 for you to decide how much weight to give to any evidence. In  
4 deciding the facts in this case, you may have to decide which  
5 witnesses to believe and which witnesses not to believe.

6           You may believe everything a witness said or part of  
7 it or none of it. In considering the testimony of any witness,  
8 you may take into account such things as: the opportunity and  
9 ability of the witness to see or hear or know the things  
10 testified to; the witness's memory; the witness's manner while  
11 testifying; the witness's interest in the outcome of the case,  
12 or any bias or prejudice; whether other evidence contradicted  
13 the witness's testimony; the reasonableness of the witness's  
14 testimony in light of all the evidence; and any other factors  
15 that bear upon believability.

16           The weight of the evidence as to a fact does not  
17 necessarily depend on the number of witnesses who testify.  
18 What is important is how believable the witnesses were and how  
19 much weight you think their testimony deserves. Sometimes a  
20 witness may say something that is not consistent with something  
21 else that he or she said. Sometimes different witnesses will  
22 give different versions of what happened.

23           People often forget things or make mistakes in what  
24 they remember. Also, two people may see the same event, but  
25 remember it differently. You may consider these differences,

1 but don't decide that testimony is untrue just because it  
2 differs from other testimony.

3           However, if you decide that a witness has deliberately  
4 testified untruthfully about something important, you may chose  
5 not to believe anything that witness said.

6           On the other hand, if you think the witness testified  
7 untruthfully about some things but told the truth about others,  
8 you may accept the part you think is true, and ignore the rest.

9           A defendant in a criminal case such as this has a  
10 constitutional right not to testify. In arriving at your  
11 verdict, the law prohibits you from considering in any manner  
12 the fact that the defendant did not testify.

13           You've heard testimony that the defendant made certain  
14 statements. It's for you to decide, first, whether the  
15 defendant made the statements; and, second, if so, how much  
16 weight to give to them.

17           In making those decisions, you should consider all the  
18 evidence about the statements, including the circumstances  
19 under which the defendant may have made them.

20           I'll now instruct you on the law as it applies to the  
21 specific charges brought against this defendant in this case.

22           The indictment charges the defendant, Robert Allan  
23 Pooley, with, first, four counts of wire fraud in violation of  
24 Section 1343 of Title 18, United States Code; and second, two  
25 counts of aggravated identity theft in violation of

1 Section 1028 (A) (a) (1) of Title 18, United States Code.

2 A separate crime is charged against the defendant in  
3 each count. You must decide each count separately. Your  
4 verdict on one count of the indictment should not control your  
5 verdict on any other count of the indictment.

6 You're here only to determine whether the defendant is  
7 guilty or not guilty of the charges set forth in the  
8 Indictment. The defendant is not on trial for any conduct or  
9 offense not charged in the Indictment.

10 The Indictment also charges that the crimes charged  
11 against the defendant were committed on or about certain dates.  
12 The Government does not have to prove each crime occurred on an  
13 exact date. The Government only has to prove beyond a  
14 reasonable doubt that each crime was committed on a date  
15 reasonably close to the date alleged.

16 The defendant is charged in Counts 1, 2, 3, and 4 of  
17 the Indictment with wire fraud. For the defendant to be found  
18 guilty of that charge, the Government must prove each of the  
19 following elements beyond a reasonable doubt:

20 First, that the defendant knowingly participated in a  
21 scheme or plan to defraud for the purpose of obtaining money or  
22 property by means of false or fraudulent pretenses,  
23 representations, or promises, or omitted facts. Deceitful  
24 statements or half truths may constitute false or fraudulent  
25 representations.

1           Second, that the statements made or facts omitted as  
2 part of the scheme were material. In other words, that they  
3 had a natural tendency to influence or were capable of  
4 influencing a person to part with money or property.

5           Third, that the defendant acted with the intent to  
6 defraud the tandem instructor candidates; in other words, with  
7 the intent to deceive or cheat them.

8           And, fourth, that the defendant used or caused to be  
9 used an interstate or foreign wire communication to carry out  
10 or attempt to carry out an essential part of the scheme.

11           In determining whether a scheme to defraud exists, you  
12 may consider not only the defendant's words or statements, but  
13 also the circumstances under which they were used as a whole.

14           In order to convict the defendant of wire fraud based  
15 on omissions of material facts, you must find that the  
16 defendant had a duty to disclose the omitted facts arising out  
17 of a relationship of trust. That duty can arise either out of  
18 a formal fiduciary relationship or an informal trusting  
19 relationship in which one party acts for the benefit of another  
20 and induces the trusting party to relax the care and vigilance  
21 that would ordinarily be exercised.

22           A wiring is caused when one knows that a wire will be  
23 used in the ordinary course of business or when one can  
24 reasonably foresee such use. It need not have been reasonably  
25 foreseeable to the defendant that the wire communication would

1 be interstate or foreign in nature. Rather, it must have been  
2 reasonably foreseeable to the defendant that somewhere  
3 communication would occur in furtherance of the scheme and an  
4 interstate or foreign wire communication must have actually  
5 occurred in furtherance of the scheme.

6 That is Counts 1 through 4.

7 The defendant is charged in Counts 5 and 6 of the  
8 Indictment with aggravated identity theft. In order for the  
9 defendant to be found guilty of aggravated identity theft, the  
10 Government must prove each of the following elements beyond a  
11 reasonable doubt:

12 First, that the defendant knowingly used, without  
13 legal authority, a means of identification of Yuri Garmashov.

14 Second, that the defendant knew that the means of  
15 identification belonged to a real person.

16 And, third, that the defendant did so during and in  
17 relation to the offense of wire fraud charged in Counts 1  
18 through 4 of this Indictment. A signature qualifies as a means  
19 of identification.

20 The term "legal authority," as used in these  
21 instructions, means permission to act on that person's behalf  
22 in a way that is not contrary to law.

23 A means of identification is used during and in  
24 relation to a crime when the means of identification is used in  
25 a manner that is fraudulent or deceptive toward the tandem

1 instructor candidates and is at the crux of what makes the  
2 conduct criminal.

3           Being at the crux requires more than a causal  
4 relationship between the means of identification and the wire  
5 fraud offense. The defendant must have used the means of  
6 identification itself to defraud or deceive the candidates.

7           The Government need not establish that the means of  
8 identification of another person was stolen or that the  
9 defendant did not have consent to use it.

10           An act is done knowingly within the meaning of these  
11 instructions if the defendant is aware of the act and does not  
12 act or fail to act through ignorance, mistake, or accident.  
13 The Government is not required to prove that the defendant knew  
14 that his acts or omissions were unlawful. You may consider  
15 evidence of the defendant's words, acts, or omissions, along  
16 with all the other evidence, in deciding whether the defendant  
17 acted willfully.

18           A defendant may be found guilty of the crimes charged,  
19 even if the defendant did not personally commit the acts  
20 constituting the crime, if the defendant willfully caused an  
21 act to be done that, if directly performed by him, would have  
22 been an offense against the United States.

23           A defendant who puts in motion or causes the  
24 commission of an indispensable element of the offense may be  
25 found guilty as if he had committed the element himself.



1           The punishment provided by law for these crimes is not  
2 for the jury to determine. It's for the Court. In other  
3 words, it's the Judge to determine, and you may not consider  
4 punishment in deciding whether the Government has proved its  
5 case against this defendant beyond a reasonable doubt.

6           Now, when you begin your deliberations, you should  
7 select one member of the jury to serve as your foreperson.  
8 That person will preside over your deliberations and speak for  
9 you here in court.

10           You'll then discuss the case with your fellow jurors  
11 to reach an agreement, if you can do so. Your verdict must be  
12 unanimous. Each of you must decide the case for yourself, but  
13 you should do so only after you've considered all the evidence,  
14 discussed it fully with the other jurors, and listened to the  
15 views of your fellow jurors.

16           Don't be afraid to change your opinion if the  
17 discussion persuades you that you should, but don't come to a  
18 decision simply because the other jurors think it's right.

19           It is important that you attempt to reach a unanimous  
20 verdict but, of course, only if each of you can do so after  
21 having made your own conscientious decision. Don't change an  
22 honest belief about the weight and effect of the evidence  
23 simply to reach a verdict.

24           Perform these duties fairly and impartially. You  
25 should also not be influenced by any person's race, color,

1 religious beliefs, national ancestry, sexual orientation,  
2 gender identity, gender, or economic circumstances.

3 Also, don't allow yourself to be influenced by  
4 personal likes, dislikes, sympathy, prejudice, fear, public  
5 opinion, or biases, including any unconscious biases.

6 It is your duty as jurors to consult with one another  
7 and to deliberate with one other with a view toward reaching an  
8 agreement, if you can do so.

9 During your deliberations, you should not hesitate to  
10 reexamine your own views and change your opinion, if you become  
11 persuaded that it was wrong, because you must base your verdict  
12 only on the evidence received in the case and these  
13 instructions.

14 I remind you once again not to be exposed to any  
15 information outside the case or the issues it involves, except  
16 for discussing the case with your fellow jurors during your  
17 deliberations. Still, do not communicate with anyone in any  
18 way, and do not let anyone else communicate with you in any way  
19 about the merits of the case or anything to do with it. And  
20 don't seek or receive any information from any outside source  
21 about the case or anything to do with it.

22 Some of you, I noticed, have taken notes during the  
23 trial. Whether or not you took notes, you should rely on your  
24 own memory of what was said. The notes are only to assist your  
25 memory, and you should not be overly influenced by them. You

1 may, of course, take them into the jury deliberation room with  
2 you.

3 A verdict form has been prepared for you. It's  
4 entitled "Verdict Form." It has the title of the case and  
5 number. It says: "We, the jury, find the defendant Robert  
6 Allen Pooley as follows." And then as to Count 1 of the  
7 Indictment, there is a space for your foreperson to check  
8 either "not guilty" or "guilty" as your finding may be on the  
9 wire fraud count in Count 1.

10 Similarly as to Count 2, there is a space for your  
11 foreperson to fill in either "not guilty" or "guilty" as may be  
12 your finding as to the wire fraud count in Count No. 2.

13 On the second page, as to Count No. 3, there's a  
14 space, again, for your foreperson to check either "not guilty"  
15 or "guilty" as the case may be, as to your finding on Count 3,  
16 the wire fraud count in Count 3.

17 And as to Count 4, your verdict as to Count 4.

18 As to Count 5 and 6 of the indictment, the aggravated  
19 identity theft charges, again, there's a space for your  
20 foreperson to check either "not guilty" or "guilty" as the case  
21 may be, as to the aggravated identity theft involving the  
22 signature of Yuri Garmashov on July 1, 2016.

23 And on Count 6, the signature of Yuri Garmashov on or  
24 about August the 1st of 2016.

25 After you have agreed upon a unanimous verdict, your

1 foreperson should date it at the space in the bottom and sign  
2 it and advise the marshals outside your door that you have  
3 agreed upon a verdict.

4 If it should become necessary during your  
5 deliberations to communicate with me, you may send a note  
6 through the marshal, signed by your foreperson or by one or  
7 more jurors, and you'll have a paper in there that you can use  
8 to file -- or send a note.

9 But no member of the jury should ever attempt to  
10 communicate with me except by a signed writing, and I will  
11 communicate with any member of the jury on anything concerning  
12 the case only in writing or orally here in open court.

13 If you send out a question, I'll consult with the  
14 lawyers before answering it. That may take some time. So you  
15 may continue with your deliberations while you're waiting for  
16 the answer to any question.

17 But, remember, you're not to tell anyone, including  
18 me, how the jury stands numerically, or otherwise, until after  
19 you've reached a unanimous verdict or have been discharged.  
20 Don't disclose any vote count in any note that you may send to  
21 the Court.

22 Does counsel have any objections or exceptions to note  
23 to these instructions?

24 MS. LYDON: No, Your Honor.

25 MS. CRAGER: No, Your Honor. Thank you.

1 THE COURT: All right.

2 MS. CRAGER: Thank you.

3 THE COURT: The clerk is now going to take the  
4 exhibits and the Court's instructions into the jury room.

5 With regard to the alternates,  
6 [Participant No. 101131455], [Participant No. 101126762], and  
7 [Participant No. 101139877], are any of your personal effects  
8 still in the jury room?

9 Would you go out and get them now and bring them back  
10 here.

11 Here comes the free lunch.

12 I'm putting a jury instruction together here that I  
13 just read to you, and the clerk already has the exhibits.

14 So as to the 12 members of the jury, I'm going to ask  
15 that the marshal take custody of those jurors to begin their  
16 deliberations.

17 Would you administer the oath to the marshal, please?

18 THE CLERK: Please come forward. Raise your right  
19 hand.

20 (The marshal was sworn.)

21 THE DEPUTY: I do.

22 THE CLERK: Thank you.

23 THE COURT: All right. The marshal will now take  
24 custody of the jurors to begin their deliberations, just the 12  
25 jurors, and the alternates will remain here.

1 (The jury panel exited the courtroom.)

2 THE COURT: All right. [Participant No. 101131455],  
3 [Participant No. 101126762], and [Participant No. 101139877],  
4 this may be the parting of the ways.

5 It used to be the law that once a jury began to  
6 deliberate, the judge had to excuse the alternates because the  
7 theory was that the deliberations of the jury are part of the  
8 trial, and if something should happen to one of the jurors  
9 during deliberations, you couldn't just bring in someone else  
10 to take their place, because they would not have seen or  
11 participated in that part of the trial.

12 But the state courts had a little different idea about  
13 it, and they thought that if something happens to one of the  
14 jurors during deliberations, the Court in its discretion might  
15 be able to bring in an alternate and instruct all the jurors to  
16 disregard their deliberations and to start them anew, and if I  
17 did that, then I could use one of you in case something would  
18 happen to one of the jurors. I would have to decide whether to  
19 do that, but it's possible that it could happen.

20 So what we ask is that you continue to heed the  
21 Court's admonition and don't seek or receive any information  
22 about the case. Give Karen your cell phone numbers or the way  
23 that she could reach you, and if we need you back, she'll call  
24 you, and we'll let you know.

25 Now, we'll call you one way or the other because we

1 don't want you waiting around forever in case we forget to  
2 excuse you. So I'm going to make sure that she calls you.

3 In case we don't see you again, I want to thank you  
4 for your service in this matter. We couldn't handle it without  
5 alternates. If something should have happened to one of these  
6 jurors during the deliberations, we would have had to start all  
7 over again if we didn't have an alternate.

8 Fortunately, the trial didn't last as long as we  
9 anticipated, so we -- we didn't need your services, but those  
10 also serve who only stand and wait. And you can be proud of  
11 the fact that you have served on a jury.

12 I forgot, had any of you ever served before? All  
13 right. Well, I hope it's been a rewarding experience for you.

14 Would you leave your -- your badges on your seats, and  
15 we'll pick them up. You can keep your notebooks. If you don't  
16 need them when you come back, you can keep them as a souvenir.

17 You have the thanks of the Court. All right. Thank  
18 you very much.

19 (The alternate jurors exited the courtroom.)

20 THE COURT: All right, Counsel. You'll be available  
21 on ten minutes' notice; right.

22 MS. LYDON: Yes, Your Honor.

23 THE COURT: All right. The Court will be in recess.

24 (Noon recess was taken.)

25 -oOo-

1        **SACRAMENTO, CALIFORNIA; THURSDAY, MAY 23, 2024; 4:44 P.M.**

2                                -oOo-

3                THE COURT: We haven't heard a word from the jury  
4 since I sent them out to deliberate. My thought was to bring  
5 them in at a quarter to 5:00 and ask them if they wanted to  
6 deliberate further today or to come back tomorrow morning and  
7 resume at 9:00. And I would probably just leave it up to them.

8                MS. LYDON: That's agreeable with the Government, Your  
9 Honor.

10               MS. CRAGER: That's fine, Your Honor.

11               THE COURT: All right. So let's bring them in.

12               Are they calling us or are we calling them?

13               THE CLERK: No. They're calling me. I'll be right  
14 back.

15               THE COURT: Well, that was a coincidence.

16               (Brief recess was taken.)

17               THE COURT: The jurors -- the jurors' foreman is  
18 [Participant No. 1011130600], Juror No. 10, and she says: "We  
19 would like to break for the evening and resume at 9:00 o'clock  
20 tomorrow morning."

21               If I hadn't known better, I would have thought she was  
22 listening in on our conversation, so we'll bring them in.

23               (The jury panel entered the courtroom.)

24               THE COURT: There's one juror --

25               THE CLERK: Oh, I'm sorry, Your Honor.



1           THE COURT: Everyone is present. Defendant is present  
2 with counsel. All the jurors are present.

3           [Participant No. 1011130600], you're the foreperson.  
4 I have your note that says you "would like to break for the  
5 evening and reconvene at 9:00 o'clock tomorrow morning."

6           Is that correct?

7           THE FOREPERSON: Yes.

8           THE COURT: Everyone agrees on that?

9           All right. We will let you do that. Now, remember  
10 that you are still under the Court's admonition, so it is all  
11 the more important that you remember not to seek or receive any  
12 information about the case, not to talk about the case with  
13 anyone, and to adhere the -- to the rest of the admonition.

14           You'll notice that the alternates are not here any  
15 longer, so it's even more important that you come back tomorrow  
16 morning on time to resume your deliberations. No one will  
17 interfere with what you have in the jury room, so you can leave  
18 whatever you have in there.

19           Show up directly to the jury room tomorrow morning at  
20 9:00 o'clock. If you are all here, you may resume your  
21 deliberations. We won't have to call you into the courtroom to  
22 do that.

23           If you're all there before 9:00 o'clock, you can  
24 resume, just so long as all of the jurors are present. And at  
25 9:00 o'clock, I'm going to have Karen look in there just to

1 make sure everyone is present.

2 All right. Have a nice evening. Remember the  
3 admonition and come back tomorrow morning at 9:00.

4 (The jury panel exited the courtroom.)

5 THE COURT: All right. Counsel, same for you and the  
6 defendant. You don't have to be in the courtroom, but be  
7 available on ten-minutes notice after 9:00 o'clock.

8 MS. LYDON: Thank you, Your Honor.

9 (The proceedings were adjourned at 4:51 p.m.)

10 -oOo-

11 **C E R T I F I C A T E**

12 I, Abigail R. Torres, certify that I am a duly  
13 qualified and acting Official Court Reporter for the United  
14 States District Court; that the foregoing is a true and  
15 accurate transcript of the proceedings as taken by me in the  
16 above-entitled matter on 5/23/2024; and that the format used  
17 complies with the rules and requirements of the United States  
18 Judicial Conference.

15 Dated: 6/20/2024  
16 /s/ Abigail R. Torres

17 Abigail R. Torres, RPR/RMR, FCRR  
18 CSR No. 13700  
19 U.S. Official District Court Reporter  
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